

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/09/2004

CORAM

THE HONOURABLE Mr.JUSTICE A.K.RAJAN

WRIT PETITION NO.26211 of 2004

All India Medical and Engineering
Colleges Association,
rep.,by its President
Dr.T.D.Naidu
5110, H.Block,I Street,
12th Main Road,
Anna Nagar, Chennai-40 ... Petitioner

-vs-

1.The State of Tamilnadu
rep.,by its Secretary,
Higher Education Department,
Fort St.George, Chennai

2.The Director of Technical Education,
Patel Road, Guindy,
Chennai-25
... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue writ of mandamus directing the respondents to forthwith approve the list of the students, who have obtained eligible percentage of marks in the qualifying examinations and who have been admitted for the academic year 2004-2005 in the member colleges of the petitioner, who are the unaided minority and non-minority Engineering colleges in the State of Tamilnadu in the lapsed seats which remain vacant after the State agency has admitted the candidates.

!For Petitioner ...Mr.K.Selvaraj

^For Respondents ...Mr.S.P.Prabhakaran-AGP.

:O R D E R

The petitioner prays for mandamus directing the respondents to forthwith approve the list of the students, who have obtained eligible percentage of marks in the qualifying examinations and who have been admitted for the academic year 2004-2005 in the colleges of the petitioner association, who are the unaided minority and non-minority Engineering colleges in the

State of Tamil Nadu for the lapsed seats which remain vacant after the State agency has admitted the candidates through the Single Window System.

2. A Division Bench of this Court has passed Orders in W.A.Nos.2 707, 2856, 2920 and 3053 of 2004. In that Orders, following the decisions in T.M.A. PAI's case [(2002) 8 SCC 481] and the decision of ISLAMIC ACADEMY's case [(2003) 6 SCC 697], it has been held that the individual colleges – whether it is unaided or aided, minority or non-minority colleges – can admit students based on the marks obtained in the qualifying examination and the Common Entrance Test (CET) conducted either by the State Government or by the Consortium, and that merit cannot be ignored. They cannot admit students who did not write either of the Common Entrance Test, or a less meritorious student in preference to a more meritorious student.

3. The prayer in the writ petition, in effect, is to admit the students based only on the marks obtained in the qualifying examinations. That implies that none of the students admitted by the College had appeared in either of the Common Entrance Tests. Such students cannot be admitted into the Engineering Colleges as per the decision of the Supreme Court in the two cases cited above.

4. The plea of the petitioners herein is that there is no guarantee that through the Single Window System, the State would fill up the entire Government Quota in all the unaided Colleges in the State. A list of vacancies in the Government Quota has also been filed in the Typed Set – which shows that at least in 88 Colleges only less than 50 % of the Government Quota was filled (in 50 Colleges not even 25% of the Government Quota has been filled up). Even under those circumstances, as per the decisions of the Supreme Court the individual colleges cannot admit any student who did not appear in any of the CET. Admission to Engineering Colleges cannot be done only on the basis of the marks obtained in the qualifying examinations.

5. Indeed, the situation is very serious. These 88 Colleges faces closure in view of the restriction that the students who did not appear for the CET cannot be admitted. The Single Window System (SWS) and the Common Entrance Test were followed when the demand was more than the seats available. The Supreme Court had made the observation as stated above under those circumstances. Now, there is a different situation. More seats are available than the demand. Though many students satisfy the AICTE guidelines (viz) obtained more than 50% marks in the qualifying examinations, but they cannot be admitted to the Engineering Colleges because of the observation made by the Supreme Court. Nearly 25,000 seats in Engineering Colleges in Tamil Nadu is likely to be vacant in the year 2004-05. A few thousands of students may satisfy the conditions laid down by the AICTE for admission. Yet, those students cannot be admitted since they did not write the CET which is also made as a condition by the Supreme Court. Even after the admission through Single Window System and the Management Quota and admission of all the students who appeared in the Common Entrance Tests is completed, a large number of seats may be available. Filling up of those seats based on the

marks obtained in the qualifying examination (Plus 2) may not be violative of the AICTE rules/norms. But, this Court cannot permit such admissions so long as the observations of the Supreme Court in TMA Pai's case and Islamic Academy's case hold the field, since the decisions of the Supreme Court have the effect of altering the rules of the AICTE for admission to Engineering Colleges. Hence, the writ petition is dismissed. Consequently, no order is necessary in W.P.M.P.No.31865 of 2004 and the same is closed.

Index : Yes

Internet: Yes

tsv/pb

To

1.The Secretary,
State of Tamilnadu
Higher Education Department,
Fort St.George, Chennai

2.The Director of Technical Education,
Patel Road, Guindy,
Chennai-25

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